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SAMUEL RUBENSTEIN
OF COUNSEL

*Products
Produced
by Cedar*

January 18, 1993

Mr. Joseph M. Hoover
Manager
Enforcement Branch
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8001 National Drive
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VIA FEDERAL EXPRESS

Re: Cedar Chemical Corporation CAO LIS No. 91-118

Dear Mr. Hoover:

With regard to your letter of December 15, 1992 and your meeting with John Wagner and Jeff Bennett on January 5, 1993, this is to confirm that I will be happy to review with you or your counsel the transcripts of depositions which have been taken in Cedar Chemical Corporation's pending suit against Wormald U.S., Inc., as successor to The Ansul Company, in the Chancery Court of Phillips County. There are only a few deposition exhibits which are under seal pursuant to a Protective Order that was entered in the case; however, I have obtained permission from Wormald's counsel to give ADPC&E's attorneys access to these exhibits. I will be happy to meet with Pat Crossley or if she is on maternity leave, any other member of ADPC&E's legal staff to review these depositions in your offices at any convenient time.

This letter is also intended to clarify Cedar's intent in including my memorandum of August 26, 1992 at Tab A in the Preliminary Report; to provide additional information which was developed in subsequent discovery in the Wormald suit; and to confirm the understandings reached in the meeting on January 5, 1993 concerning your letter of December 15, 1992.

First of all, it should be understood that Table 2-1 in the Preliminary Report reflects only products which Cedar has produced at the West Helena Plant since it acquired the Plant in

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1986. The information concerning these products was derived from Cedar's own records. Of course, some of these products (such as propanil, permethrin and cypermethrin) were also produced by former owners or operators at the Plant. Little documentation exists, or if it does exist, is not readily available, regarding production activities at the Plant which were carried out by Eagle River Chemical Corporation or by Vertac, the former owners in the 1970's - at least as to products which were produced by these companies but never produced by Cedar. Thus, for example, although Section 2.2.1 of the Preliminary Report reflects that dinoseb was produced at the Plant in 1972, dinoseb is not among the products listed in Schedule 2-1.

My report at Tab A in the Preliminary Report was intended to help fill this data gap by disclosing information developed in the course of Cedar's suit against Wormald with regard to dinoseb production and any other activities which occurred on the Plant site prior to Cedar's acquisition of the Plant, particularly when Ansul controlled the Plant. (As you probably know, we have asserted in the suit against Wormald, and the Court has determined, that Wormald is responsible for the clean up costs associated with certain wastes which were deposited on the site as a result of the production of dinoseb when the site was controlled by Ansul in 1972.)

In addition to the depositions referred to in my memorandum of August 26, 1992, additional depositions were subsequently taken by counsel for Wormald in September 1992. These later depositions provided information about other products which were produced on the Plant site by former owner/operators during the 1970's which are not identified in Table 2-1. While I do not think that the CAO actually contemplated that Cedar would carry out investigations and report on activities prior to its acquisition of the Plant unless documented in records available to Cedar, I am nevertheless supplementing Table 2-1 by enclosing a list of these additional products and related information in the attachment to this letter. I understand from the deposition testimony in the Wormald case and from my subsequent investigation that production of methoxychlor and DCA by former owners or operators on the plant site in 1974-1975 and the production of propanil from 1974 to 1977 involved disposal of aqueous wastes into the ponds which were closed in 1978. None of the other products listed in the enclosure would have involved such waste disposal.

I am satisfied that the attached list, together with Table 2-1 in the Current Conditions Report, is a complete list of all products manufactured at the West Helena Plant in commercial

*Adams
Wrote
Transcript
12 to
Hester*

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quantities since it was first operated by Helena Chemical Company in 1970. If there is any information in ADPC&E files indicating that products other than those on these lists were ever produced on the site, please let me know.

Other than the waste streams referred to above with respect to propanil, DCA and methoxychlor production in the early 1970's, the only other wastes which were disposed of in the ponds which were closed in 1978 were wastes which were transported from Helena Chemical Company's West Helena formulating facility during the period beginning either in 1974 or 1975 and ending in 1977. These wastes are believed to have resulted from the clean out of formulating vessels and would be expected to have contained a variety of pesticide contaminants - which seems to be borne out by the 1986 soil sampling results which are included in the Current Conditions Report. Helena Chemical Company has been named third-party defendant by Wormald in the pending suit and discovery in that case may identify more specifically, if possible, these waste constituents.

Your letter (Paragraph 5) indicates that ADPC&E files disclose additional wastes which were placed in these ponds about which Cedar has no information. Obviously, for purposes of cost recovery actions under the Arkansas Remedial Action Trust Fund, we would be interested in learning everything possible about wastes which were placed in these closed ponds and persons who were involved in such disposal activities, including, of course, any information known concerning Helena Chemical Company's use of the ponds in the early 1970's. Accordingly, I would like to meet with you in your offices to review the files which are referred to in your letter.

Finally, it is my understanding that the thirteen numbered paragraphs of your NOD letter of December 15, 1992 were resolved (to the extent a resolution was required) as follows:

1. The word "wetland" will be added at the appropriate place in Figure 2-1. It is understood that no Flood Plain Map for the site is available from FEMA. It was agreed that Cedar would furnish a narrative of the 100 year flood plain and the elevations at the facility in lieu of a map. Since the meeting, however, John Wagner was able to obtain a flood plain map from the Department of Housing and Urban Development which includes the site, and this map will be included in an appendix to the FIWP. In addition, as agreed, a map showing the location of Outfall 002 at the

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Mississippi River, including the line connecting the Outfall to the Plant will be provided in the appendix.

2. Cedar will provide process flow diagrams for each of those processes listed in Table 2-1 for which the biological treatment system has been used for aqueous waste disposal.

3. Table 2-3 is deemed sufficient.

4. It is understood that the comment in Paragraph 4 of your letter is being addressed pursuant to the CAO entered in LIS No. 92-198. Table 2-1 will be revised to delete waste streams which were permitted for handling through the biological treatment system, but which in fact were not so handled and were sent off site for disposal in permitted facilities.

5. The comments in Paragraph 5 are addressed above. After we have an opportunity to review the files referred to in Paragraph 5 of your letter, we may be able to shed some additional light on the subject.

6. The unavailability of a map from FEMA is addressed in Paragraph 1 above.

7. Cedar agrees that characterization of the hydrogeologic setting will be better defined as a result of implementation of the FIWP.

8. There are four documented occurrences of accidental breaks in piping lines:

a. Trestle by Kelly's - release into a ditch; no information as concerning when this occurred or how much released.

b. Trestle on Harry Stephens' property June 1985 - release into a ditch; not known how much released.

c. Release caused by break in line caused by Hill & Hill Construction in April 1989 - release into a ditch - the quantity unknown.

d. Break in line in connection with utility pole installation on other side of levee in 1992 - no release.

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It is understood that the FIWP will address and justify Cedar's position that no further remedial action is required with respect to these spill locations.

9. Cedar's removal of the piping which presently transfers process waste water to the treatment system will proceed in accordance with a general construction permit issued pursuant to the CAO in LIS No. 92-198. Cedar will inspect for leaks in the course of the removal and submit an inspection report to ADPC&E pursuant to implementation of the FIWP under the referenced CAO.

10. It is understood that Cedar has not collected any sludge out of the old separator, and sludge from the new separator will be disposed of off-site - not into the biological treatment system. The FIWP will provide for soil sampling where spills occurred on the dike.

11. It is understood that the areas indicated in Exhibit C to the Memorandum which is included at Tab A of the Report will be addressed in the FIWP. (In that regard, I am enclosing a copy of a memo from ADPC&E files which was obtained during discovery in the Wormald case indicating the presence of a "temporary holding pond" on the site in July 1972, which was apparently used for dinoseb waste water. This may be identical to the partially closed impoundments which were referred to in the Holcomb deposition testimony.)

12. The owner of the property northwest of the Site, across the railroad tracks, has been determined to be Alan Hargraves, who resides at 125 Neil Road, Helena, Arkansas.

13. Cedar understands that it is obligated to submit quarterly progress reports to ADPC&E as required by the CAO in LIS No. 92-198.

It was also agreed that Cedar will have a two week extension, to February 4, 1993, in which to submit the second draft of its FIWP.

Let me know if you have any addition or correction to the above understandings. Also, if you are of the opinion that more information concerning the additional products identified in the enclosure is critical to development of a sound FIWP, please let me know promptly. In discussing the subject with Cedar's

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consulting firm, ENSAFE, they are of the opinion that information contained in the Current Conditions Report is more than sufficient for development of a FIWP.

I will contact you in the near future to set up an appointment to review ADP&CE's files referred to above.

Sincerely yours,

Allen T. Malone

ATM:jw

Enclosures

cc: Ms. Pat Crossley
Mr. John Wagner
Mr. Jeff Bennett